IN THE HIGH COURT OF PUNJAB AND HARYANA AT

CHANDIGARH.

C.W.P. No. 19753 of 2004

Date of Decision: October 26, 2006

Suresh Pal

…..Petitioner

Vs.

State of Haryana and others

…..Respondents

CORAM: HON'BLE MR. JUSTICE M.M. KUMAR.

HON'BLE MR. JUSTICE M.M.S. BEDI.

Present:- Mr. B.K. Bagri, Advocate
for the petitioner.

Mr. Harish Rathee, Sr. DAG, Haryana,

Mr. Ramesh Sharma, Advocate
for respondents No.3 and 4.

Mr. Sandeep Sharma, Advocate
for respondent No.5.

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M.M. KUMAR, J. (ORAL)

The prayer made by the petitioner in the instant petition is that a direction be issued to the respondents to promote him to the post of Secretary 'B' grade w.e.f. the date a person junior to him like Sohan Lal-respondent No.5 was promoted. Accordingly it has been further prayed for

quashing order of promotion of respondent No.5 on the post of Secretary 'B' grade. The facts are not in dispute. It is admitted position that the petitioner as well as respondent No.5 have been working on the post of Salesman in the Tapu Cooperative Credit and Service Society Ltd. According to the seniority list of the Salesman, the name of the petitioner figures at Sr. No. 180 and that of respondent no.5 at No. 187. However, respondent No.5 has been promoted on the post of Secretary 'B' grade ahead of the petitioner on the ground that the respondent- The Karnal Central Cooperative Bank Ltd., Karnal, has prepared a roster for promotion of persons from Backward Classes and the sub-category of Backward Classes have been made. Accordingly, respondent No.5 who belongs to B.C. 'B' category was to be preferred over the petitioner who belongs to B.C. 'A' category. The aforementioned controversy of microscopic reservation has come up for consideration before a Division Bench of this Court in the case of **Gajey Singh v. State of Haryana**, (Civil Writ Petition No. 398 of 2004, decided on July 6, 2006). The Division Bench has held on the basis of the judgment of the Supreme Court in **E.V. Chinnaiash v. State of Andhra Pradesh and others**, AIR 2005 SC 162, that such microscopic classification is impermissible and has quashed the same. The view of the Division Bench in the penultimate para reads as under:-

> "In the notification impugned before us, the Government of Haryana has placed Scheduled Castes in State for the purpose of reservation in service in two blocks classifying Chamar, Jatia Chamars, Rahgars, Raigar, Ramdasias or

Ravidasias in one block 'B' and remaining 36 Scheduled Castes listed in the Annexure to be in another block 'A'. Thus, the Scheduled Castes given in the Presidential notification have been divided and sub classified for the purpose of reservation in the service by providing 50% vacancies within the quota reserved for Scheduled Castes to Block 'A' and remaining 50% for Block 'B'. This, as per the judgment of the Supreme Court referred to above can not be done and if done it would be violative of Article 341 of the Constitution being beyond the legislative or executive competence of the State besides being discriminatory and thus violative of Article 14 of the Constitution of India. Equal protection clause mandates all persons under like circumstances should be treated alike. While reasonable classification is permissible under Article 14 of the Constitution but it is impermissible to provide for micro classification or mini classification as is being done in the present notification.

We, accordingly, find that the present controversy is fully covered by the decision of the Supreme Court in the case of **E.V.Chinnaiash's** case (supra). We, accordingly, would quash the notification No. 22/5590-3-GS/111 dated 9.11.94 (Annexure P-1) holding the same to be ultra-vires of the Constitution."

In view of the above, the promotion order issued in favour of respondent No.5 necessarily has to be quashed and it is ordered accordingly. Even otherwise, we find that on the basis of the aforesaid microscopic classification a senior person cannot be made junior which would further patently violate the provisions of Articles 14, 16 (1) and 16 (4) of the Constitution. Therefore, the respondents are directed to consider the case of the petitioner for promotion w.e.f. the date respondent No.5 was promoted on the post of Secretary 'B' grade. The needful shall now be done within a period of two months from the date a certified copy of this order is supplied to the respondents.

(M.M.KUMAR)
JUDGE

October 26, 2006
sanjay

(M.M.S.BEDI)
JUDGE